

REMARKS

In the Office Action dated December 16, 2005, claims 6, 8, 9, 11, and 15-30 are pending in the above application. Claims 24-30 are herein canceled since they have been withdrawn from consideration. Claim 6 is herein canceled. Claims 31-38 are newly added. Claims 15, 34, and 37 are now independent claims from which all other claims depend therefrom. Claims 9, 15, and 20 are herein amended.

Claims 6, 9, 15-16, and 18-23 stand rejected under 35 U.S.C. 102(b) as being anticipated by Polzin (U.S. Pat. No. 5,025,581).

Note that claim 6 is herein canceled and that claims 31-33 depend from claim 15.

Claim 15 recites a display device for exhibiting one or more objects. The display device includes a wallpaper substrate that has a rear surface and a front surface. A first adhesive layer is coupled to the rear surface and is configured for attachment to a structural surface of a building. A pocket, which has a transparent front layer and one or more openings, displays the objects. The pocket is coupled to the wallpaper substrate via a second adhesive layer. The wallpaper substrate and the pocket form wallpaper defined as material used to significantly cover and decorate walls of indefinite size.

The Office Action broadly interprets the claimed term "wallpaper substrate" to be a substrate formed of paper that can be attached to a wall. Regardless of how the term "wallpaper substrate" is defined, Applicant has herein amended claim 15 to clearly distinguish it over that disclosed in Polzin.

Polzin discloses an individual picture holder that is similar to a picture frame, which has a bottom layer that may be made of paper. An adhesive coating is affixed to the bottom layer to allow the picture holder to be attached to a surface.

Although the bottom layer of Polzin may be formed of paper, the picture holder is clearly not wallpaper. The picture holder is a single individual holder that may be attached to a door or a refrigerator, as suggested in Polzin. The

picture holder has a finite size and is not used to cover or significantly cover a wall.

Also, the bottom layer of Polzin is unlike the wallpaper substrate claimed. The bottom layer of Polzin is not decorative or used to decorate a wall. The bottom layer is rather covered by a picture or other layers of the picture holder. The portions of the wallpaper substrate that are not covered by the pocket are visible and decorative. Besides, the Office Action on page 4 admittedly states that Polzin fails to disclose whether the substrate in which the pocket is removably attached is in the form of a wallpaper substrate.

Since Polzin fails to teach or suggest a wallpaper substrate and wallpaper, as claimed, Polzin fails to teach or suggest each and every element of claim 15. In order for a reference to anticipate a claim the reference must teach or suggest each and every element of that claim, see MPEP 2131 and *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628. Therefore, claim 15 is novel, nonobvious, and is in a condition for allowance at least in view of Polzin. Also, since claims 9, 16, 18-23, 31-33, depend from claim 15, they too are novel, nonobvious, and are in a condition for allowance for at least the same reasons.

Claims 6, 8-9, 15-17, 19-21, and 23 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Polzin in view of Martinez et al. (U.S. Pat. No. 4,900,604).

The Office Action states that Polzin fails to disclose whether the substrate in which the pocket is removably attached is in the form of a wallpaper substrate. Applicant agrees. However, the Office Action states that the combination of Martinez with Polzin provides such disclosure. Applicant traverses. The Office Action again states that Martinez discloses a picture display device that is attended to wallpaper and refers to the picture frame shown in Figure 2 of Martinez. Applicants submit that a picture frame that is hung on a wall over wallpaper is different than a wallpaper substrate or wallpaper that has one or more pockets. The wallpaper 36 and the substrate sheet 12 of Martinez do not have any pockets.

For argument sake, if one were to take the picture holder of Polzin and to attach it to a wall that is covered with wallpaper, one would still not arrive at the claimed invention. The hanging of the picture holder on a wall covered in wallpaper requires time and energy in hanging the holder and can also require the application of adhesives and the use of alignment or leveling tools. The claimed invention in providing the one or more pockets as part of the wallpaper eliminated the mentioned time and energy spent, the use of adhesives, and the need for alignment tools in hanging pictures or other objects. The one or more pockets claimed are automatically mounted on a wall when the wallpaper is applied. This concept is not taught or suggested in any of the relied upon reference or any combination thereof.

The Office Action also states that it would have been obvious to modify Polzin by attaching the pocket to a wallpaper substrate. Applicant submits that regardless of whether this is true it would not have been obvious to provide wallpaper having one or more pockets as claimed. Applicant asserts that the wallpaper claimed is novel and is not disclosed by the prior art. Polzin simply discloses a single picture holder that may be attached to various items. Martinez simply discloses a picture frame, which is similar to the picture holder of Polzin. Neither reference is directed to wallpaper or to the elements and features thereof. Also, as a side note and at this point irrelevant, after close review of Martinez, the picture frame over the crib is simply hung on a wall and not on a wallpaper substrate or on wallpaper.

The Office Action also states that if the picture holder of Polzin were attached to a wallpapered wall that the combination would show all of the structure claimed by the Applicant in previously submitted claim 15. Regardless of whether this is true Applicant has herein amended claim 15 to include the limitation of the wallpaper substrate and the pocket in combination forming wallpaper. This structural limitation is not shown in Polzin or Martinez. The combination or attaching of the picture holder of Polzin and wallpaper does not provide wallpaper or a wallpaper product, rather it simply provides a picture holder that has been attached to wallpaper.

Referring to MPEP 2143.01, the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). There is no suggestion or motivation provided in either Polzin or Martinez to make such combination and modifications thereof to arrive at the present invention. Polzin is directed to a display holder. Martinez simply discloses a picture frame. Obviously, picture frames and wallpaper exist in the art. However, without evidence showing a desire to provide a wallpaper product having one or more pockets is to lack disclosure of at least some of the necessary limitations needed to show that the claimed invention is obvious. Also, although the display holder of Polzin may be attached to a surface, many different items can be attached to a surface, including the picture frame of Martinez. There is no motivation provided to combine the references and make the necessary modifications. Therefore any obviousness rejection would be based on improper hindsight reconstruction in view of the present application.

Thus, Polzin and Martinez fail to teach or suggest each and every limitation of the claimed invention of claim 15. Referring to MPEP 706.02(j) and 2143, to establish a *prima facie* case of obviousness the prior art reference(s) must teach or suggest all the claim limitations, see *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Therefore, claim 15 is novel, nonobvious, and patentable in view of Polzin and Martinez. Since claims 8-9, 16-17, 19-21, 23, and 31-33 depend from claim 15, they too are novel, nonobvious, and are in a condition for allowance for at least the same reasons.

With respect to claim 9, the Office Action states that Martinez shows a picture design on the substrate and refers to items 10 and 12. The Examiner appears to be combining the picture holder of Polzin, the picture frame of the crib in Figure 1 of Martinez, and the self-adherent and removable appliqués 10 and 12 of Martinez to arrive at the claimed invention. Such a combination is unclear and does not allow one to arrive at the claimed invention, especially as amended herein. The picture design claimed is part of the wallpaper substrate

and is not removable. Thus, claim 9 is further novel and nonobvious for the above-stated reasons.

With respect to claim 20, Applicant submits that since neither Polzin nor Martinez disclose a wallpaper substrate or wallpaper, as claimed, that they both also clearly fail to teach or suggest the integral formation claimed. In review of Polzin, one can see that the top layer 1 and the middle layer 2 are adhesively attached to the bottom layer 3. Each layer is a separate entity. This is unlike the wallpaper substrate and the pocket claimed. Claim 20 is herein amended to specifically state what is meant by the term "integrally". Thus, claim 20 is further novel and nonobvious for the above-stated reasons.

Claim 11 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Polzin in view of Martinez and further in view of Lytle (U.S. Pat. No. 6,052,933) or Bell et al. (U.S. Pat. No. 3,673,724).

The Office Action states that Polzin and Martinez fail to disclose placing a plurality of picture holders onto the substrate. Applicants agree and submit that Polzin and Martinez fail to disclose the adhering of multiple pockets to a wallpaper substrate and wallpaper that has pockets. The Office Action then states that Lytle and Bell disclose attaching multiple picture frames on a wall. Applicant agrees that it is known to hang multiple picture frames on a wall. However, Applicant submits that it is not obvious to form wallpaper having multiple pockets for insertion of objects, one of which being pictures. The hanging of picture frames, however that is performed, on a wall is substantially different than the forming of wallpaper having multiple pockets and thus is substantially different than the wallpaper product itself. The claimed invention allows one to place pictures on a wall at predetermined intervals without expending a significant amount of time and energy in placing those pictures. The claimed invention eliminates the need to use mounting equipment and/or the use of adhesives and alignment equipment to place the pictures. The claimed pockets are part of the wallpaper and thus do not need to be mounted on a wall. The pockets are automatically mounted on the wall when the wallpaper is applied. The concept is not taught or suggested in any of the relied

upon references or in any combination thereof. Therefore the combination of the stated references would not have allowed one to arrive at the claimed invention and the modifications needed to the combination would not have been obvious.

Claim 22 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Polzin in view of Martinez and further in view of DeProspero et al. (U.S. Pat. No. 5,639,539).

Applicant submits that since claim 22 depends from claim 15, that it too is novel, nonobvious, and is in condition for allowance for at least the same reasons.

Claims 6, 9, 11, 15-17, and 19-23 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (U.S. Pat. No. 6,694,650) in view of Shapery et al. (U.S. Pat. No. 2,942,723).

Applicants in the previous Response stated that Brown, like Polzin, also fails to teach or suggest any of the limitations recited in claim 15. The Current Office Action states that although Brown fails to disclose that the backer panel 3 of Brown may be formed of paper, that the combination of brown and Shapery disclose a wallpaper substrate. Applicant traverses. Applicant submits that not only would the combination not allow one to arrive at the claimed invention, especially as amended herein, but also that Shapery is nonanalogous art that should not be relied upon.

Brown discloses a backer panel 3 for support of a pocket panel 2. The backer panel 3 from the figures of Brown has a substantial thickness and has attaching means 43 to allow it to be attached to other adjacent panels. The panels are similar to blocks or tiles that are attached to each other in a side-by-side arrangement. In review of Brown, one can clearly see that the backer panel 3 is not a substrate and cannot be formed of paper. The backer panel would not be able to keep its shape and would not have the supporting and attaching characteristics described in Brown if it were to be formed of paper. Thus, the combination of any reference with Brown to show that the backer panel may be formed of paper would be improper.

Furthermore, there is no motivation provided in Brown, Shapery, or in the Office Action for the combination of Brown and Shapery, let alone the needed modifications thereof to arrive at the claimed invention. Brown is directed to an apparatus for displaying objects. Shapery is directed to a self-totaling coin accounting and banking aid. The banking aid of Shapery, although formed of paper, is not used to display objects, but is rather used as an adding device to sum a certain amount of coins. The coins are placed in the adding device for a short temporary period to be added and then are removed. It is not clear from Shapery whether the banking aid could even be hung on a wall. Applicant is unable to see any motivation or suggestion in either reference for the combination thereof. Such a combination is far reaching. The banking or adding device of Shapery is completely unrelated to display device of Brown.

Referring to MPEP 2141.01(a), while the Patent Office classification of references and cross-references in the official search notes are some evidence of "nonanalogy" or "analogy" respectively, the court has found "the similarities and differences in structure and function of the inventions to carry far greater weight." *In re Ellis*, 476 F.2d 1370, 1372, 177USPQ526, 527 (CCPA 1973). It appears that the classifications of Brown and Shapery are different and thus there is an inference that at least one of the references is nonanalogous. In addition, to the classifications of the references inferring nonanalogy, Applicant submits that the structure, functions, and purposes of the systems of Shapery are clearly different than that of the present invention. Shapery would not have logically commanded itself to the inventor's attention in considering the problems solved by the device of claim 15.

In developing wallpaper for covering a wall, one would clearly not look to a banking aid for the adding of coins. The banking aid of Shapery appears to be intended for use on a bank teller desk or the like for the adding of coins. The banking aid is not something that is used to cover a wall surface. Shapery would not be reasonably pertinent to the particular problems solved by the claimed inventions. Thus, the Applicant submits that Shapery is nonanalogous art and to use such reference would be far reaching at best.

Thus, claim 15 is also, novel, nonobvious, and is in a condition for allowance in view of Brown and Shapery. Since claims 9, 11, 16-17, 19-23, and 31-33 depend from claim 15, they too are novel, nonobvious, and are in a condition for allowance for at least the same reasons.

Claim 34 recites all of the limitations of claim 15, and thus is also novel, nonobvious, and is in a condition for allowance for at least the same reasons.

Claim 37 is similar to claim 15, but recites wallpaper border as opposed to wallpaper. Applicant submits that none of the relied upon references or any combination thereof teach or suggest a wallpaper border as claimed. Thus, claim 37 and dependent claim 38 are also novel, nonobvious, and are in a condition for allowance.

With respect to claims 32, 34, and 38, the Office Action in rejecting claim 6 states that how the wallpaper substrate is provided, i.e. in the form of a roll, is immaterial. The Office Action also states that what matters is the final product. Applicant submits that in one embodiment of the present invention, namely the formation of wallpaper and wallpaper border in a roll, the rolled product is the final product. The rolled characteristic is with out a doubt material. The rolled feature infers at least some of the characteristics and/or properties of the final product. As with a picture frame, the rolled product is the product that is purchased by a customer. The physical or actual application and location of the rolled product to a wall is personal preference, like the application or selected mounting location of a picture frame.

Also, note that the above provided claim amendments are not merely aimed at the intended use of the display device claimed, but rather are directed to explicitly defining recited limitation elements within the claims and thus reciting additional limitations, which further clarify the specific final products claimed. The added limitations clearly distinguish the display devices claimed over the prior art. The recited limitations are not taught or suggested by the relied upon references.

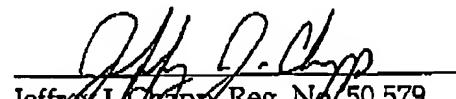
Under 37 C.F.R. 1.133, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the Applicant. Thus, the Examiner has requested the Applicant to record the substance of the interview of January 17, 2006. The Applicant's written statement is provided herein below.

As stated by the Examiner in the USPTO correspondence of January 24, 2006, no agreement was reached with regard to any language that would place the application in a condition for allowance. During the interview Attorney for Applicant stated that the prior art failed to teach or show a display device having the recited limitations in the independent claims, especially the limitations of A. a wallpaper substrate and at least one pocket forming wallpaper defined as material used to significantly cover and decorate walls of indefinite size, B. a wallpaper substrate and at least one pocket forming wallpaper defined as material used to cover and decorate walls of indefinite size, the wallpaper having a predetermined width and properties such that is produced in a roll, and C. a wallpaper substrate and at least one pocket forming a wallpaper border defined as a narrow band of material used to provide a wide decorative strip across a wall of indefinite size, around a room of indefinite size, or around a wall opening. Attorney for Applicant stated that the limitations were clearly not shown in the relied upon references. The Examiner was unable to state where in the references the limitations were shown. The Examiner was also unable to provide any suggested claim amendments that would place the case in a condition for allowance.

In light of the amendments and remarks, Applicant submits that all of the objections and rejections are now overcome. The Applicant has added no new matter to the application by these amendments. The application is now in condition for allowance and expeditious notice thereof is earnestly solicited. Should the Examiner have any questions or comments, the Examiner is respectfully requested to contact the undersigned attorney.

Respectfully submitted,

ARTZ & ARTZ P.C.



Jeffrey J. Chapp, Reg. No. 50,579
28333 Telegraph Road, Suite 250
Southfield, MI 48034
(248) 223-9500

Dated: February 16, 2006